

After de novo review of the case, together with the Report and Recommendation and the objections thereto, this Court will adopt the Report and Recommendation.

However, in consideration of Federal Rule of Civil Procedure 15(a)'s liberal approach to amending pleadings, we shall dismiss without prejudice the retaliation claim. Plaintiff will be allowed to replead his that claim only. In accordance with Federal Rule of Civil Procedure 8, the amended complaint must set forth a claim for relief which contains a short and plain statement of the claim. Further, the amended complaint must identify who retaliated against Plaintiff and when the retaliatory action occurred.

AND NOW, this 10th day of March, 2009;

IT IS HEREBY ORDERED that the partial motion to dismiss the amended complaint as pled [Document # 60] is granted. Further, the Clerk of Courts should not dismiss Defendants Beard, Wilson, Sobina and Klemm in light of the fact that Plaintiff will be allowed to file an amended complaint.

The Report and Recommendation of Magistrate Judge Baxter, dated February 18, 2009, is adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff may file an amended complaint to replead only his retaliation claim before March 23, 2009. Plaintiff's failure to comply in this regard may result in the dismissal of this action for failure to prosecute.

s/ Sean J. McLaughlin
United States District Judge